IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 12910 of 1993

Between:

G.Rajaram S/o.Narsaiah, aged about 44 years, occ: Service,
R/o Bodhan Town, Nizamabad District

..... PETITIONER

AND

1 The Superintending Engineer, A.P.S.E.B. Operation Circle,
Nizamabad, Nizamabad District,
2 The Divisional Engineer, Electrical Operation
Nizamabad, Nizamabad District
3 Fayazuddin S/o.Shamshuddin, Lineman, A.P.S.E.B. Sub-station
Dharpalli (PO), Nizamabad District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the action of the respondent No.2 in not rectifying the irregular seniority and promotion of the Respondent No.3 to the cadres of Assistant Wireman and Wireman and Lineman as illegal, arbitrary by way of issue a writ of mandamus or any other writ or order with a consequential direction to the Respondent No.2 to fix up the seniority of the petitioner above the respondent No.3 in the cadres of Assistant Wireman, Wireman, Line man in the Respondent NO.2 Division and pass such other order.

For the Petitioner: MR.D.SANJEEVA KUMAR, Advocate

For the Respondent Nos. 1 and 2: Mr. S. RAVINDRANATH S.C.

For A.P.S.E.B.

For the Respondent No.3: None appeared

The Court made the following :

ORAL ORDER

The petitioner, who was working as Line man, approached this Court and filed the present writ petition for a declaration that the action of the 2nd respondent-Divisional Engineer in not rectifying the irregular seniority and promotion of 3rd respondent by name Faizuddin to the cadres of Assistant Wireman, Wireman and Lineman as illegal and arbitrary, and also for a consequential direction to the 2nd respondent to fix up the seniority of the petitioner over and above the 3rd respondent in the cadres of Assistant Wireman, Wireman and Lineman in the 2nd respondent-Division.

The undisputed facts are that the petitioner was appointed as Helper on 6.12.1969, whereas the 3rd respondent was appointed as Helper on 1.2.1970. Subsequently, the petitioner as well as 3rd respondent were promoted to the posts of Assistant Wireman, Wireman and Lineman. When a seniority list was prepared in the year 1986 and when the 3rd respondent was shown at Sl.No.25 and the petitioner was shown at S.L.No.34, the petitioner has raised objection stating that he should be put over and above the 3rd respondent. Subsequently, another seniority list of Lineman was prepared in the year 1991, wherein the petitioner was shown at Sl.No.26, whereas the 3rd respondent was shown at Sl.No.13. At that juncture, when again he raised objection and gave a representation to rectify the said error, the 2nd respondent issued the present proceedings, dated 9-4-1992, saying that said representation is time barred. At that juncture, he approached this Court and filed the present writ petition.

A detailed counter-affidavit is filed on behalf of the 1st and 2nd respondents. Though the notice was served on 3rd respondent, the 3rd respondent has not chosen to put in appearance either in person or through an Advocate.

Heard the learned counsel appearing on either side.

From the facts, it is clear that the impugned proceedings, dated 9-4-1992, issued by the 2nd respondent on the ground that the representation of the petitioner is time barred is wholly misconceived. There is no dispute about the initial appointment of the petitioner and 3rd respondent. The petitioner was appointed as Helper on 6.12. 1969, whereas the 3rd respondent was appointed as Helper on 1.2.1970 . When it is admitted by the respondents in the counter-affidavit that the petitioner's appointment as Helper was prior to the appointment of 3rd respondent, it is not known as to how 3rd respondent was promoted as Assistant Wireman, Wireman and Lineman before taking into consideration of the petitioner's case who was appointed as Helper much prior to the 3rd respondent. Nothing is stated in the counter-affidavit filed by the 1st and 2nd respondents. May be it is a fact that the petitioner brought the said anomaly to the notice of the 2nd respondent for the first time in the year 1986, but simply on that score his grievance cannot be negatived. When a mistake has crept in, the authorities have a duty to rectify the same whenever it is brought to their notice. In the instant case, I have to accept the contention of the petitioner that he is not aware of the anomaly till the seniority list of Lineman was first prepared in the year 1986. When that is taken into consideration, it cannot be said that there is any delay in making the representation to the authorities about the said anomaly. 6

Hence, this Court has no hesitation to come to the conclusion that the petitioner is entitled to be promoted to the post of Assistant Wireman, Wireman and Lineman before the 3rd respondent's case was considered or at the time when the 3rd respondent was considered for those posts.

Accordingly, this writ petition is allowed and the 1st and 2nd respondents are directed to re-fix the seniority of the petitioner on par with the 3rd respondent in the cadres of Assistant Wireman, Wireman and Lineman and consequently promote him to the said post.

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9th September, 2004

vp

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the Ninth day of September, two thousand and four.

Sd/-

ASSISTANT REGISTRAR

To

1. The Superintending Engineer, A.P.S.E.B. Operation Circle, Nizamabad, Nizamabad District,
2. The Divisional Engineer, Electrical Operation, Nizamabad, Nizamabad District,
3. 2 C.Cs to Sri S. Ravindranath, S.C. for APSEB, Hyderabad
4. 2 C.D copies.